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From:

Sent: Wednesday, November 28, 2012 6:28:54 AM

To:

Cc:

Subject: FW: Informal Advice on "Timely Protest" for Purposes of I.R.C. § 6672(b)(3) --

Good morning: Here is our response to your question. This has been reviewed and approved by my reviewer.

We agree that the taxpayer filed a timely, valid protest of the Letter 1153 notice of proposed assessment of the Trust Fund Recovery Penalty. In response to the Letter 1153, the POA sent the RO a letter dated [redacted], which was within the appropriate timeframe for protesting a proposed assessment of the TFRP. Although the POA's letter states that it "is not intended to constitute a written appeal of the proposed assessment and that [taxpayer] would continue to have the right to file a written appeal following the [revenue officer's] review of this [the letter]," the letter provides a detailed response to the Letter 1153 and was sent by the revenue officer to Appeals as a valid protest. Both the RO and the POA believed that the taxpayer had contested the proposed assessment. The RO sent a letter dated [redacted] informing the POA that he was forwarding the case to Appeals for consideration. The POA believed that his [redacted] letter preserved the taxpayer's right to file a more formal claim and asked the RO to inform him if this was not the case. The RO did not inform the POA that more information was needed. Instead, he treated the letter as a valid protest. Treating the letter as a valid protest is consistent with IRM 5.7.6.1.6. IRM 5.7.6.1.6(1) (Note) provides that a protest filed within the appropriate timeframe is timely even if it is incomplete. If the information is incomplete, the RO will contact the POA and inform him of the defects. IRM 5.7.6.1.6 (3). If the POA does not provide a perfected protest within 30 days, the RO will still send the protest to Appeals, which will accept jurisdiction over the protest. *Id.*